Yielding up the other check Dropping humbly on the knees Closing lips when dared to spenk. Will not do in times like these.

## Knoxville, Tenn., August 8, 1866.

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#### The Union Speaking.

Saturday was a proud day for the Unconditions Union Men of old Knox county, and those portions of Blount and Anderson counties represented in the meeting. The crowd was large, attentive and ap preciative. The Secretary of State, A. J. Fletcher, led off in a speech of two hours and a half. His vindication of the State Government was complete, and his showing up of Johnson's record was crushing. The speach was all that the friends of the true Union cause could desire.

Col. Doughty, the member from Anderson, spoke half an hour, and was repeatedly cheered. He spoke to the point, with distinctness and some, and did

Major General Cooper spoke one hour, and with great effect and force. There will no longer be any more controversy here, among rebels and copper beads, as to the General's position, as his denuncia tions of both were withering and well-timed. H showed up the Philadelphia-August-Grayback-Con pention, and the leading traitors who have been up pointed to attend it, and who will evidently control it. He had fought these traitors four years, and waprepared to fight them four more. He would only fight under the old flag, and with and for the party that had put down the late rebellion.

Hon. Horace Maynard spoke forty-five minute having just arrived from Wa-hington. He showed up the Philadelphia-Grayback-Convention, and the tional Amendments through the Tennessee Legis unpardoned rebels of the South, and the traitors of the North who were to control its action. He told the audience that the old adages, birds of a feather will flock together, and that men are to be known by the company they keep, would apply with force to this Convention. He was repeatedly cheered.

The effect of this speaking was very fine, and it were held on for five hours, and delighted that they one thing-that is, what a crowd of Union men can | ties feel, certain! Who are they? be collected here upon short notice to hear a loyal man speak, and what work it takes to collect a corporal's guard to hear the advocates of the Johnson- A great clamor is now raised in favor of lenien-

### Hon. Newton A. Patterson,

be competent and honest, and knowing him to be | those who run upon the merits of their wrongs. truly loyal, the Governor selected him in preference We speak for ourselves, that while we can forgive him." He said, "We have watched closely your they are themselves. action during the week. You have decided many important legal questions, in all of which, together with your charges to the jury, you were right. You The rebel papers of the country think that Govhave impressed us that you are honest and capable; ernor Brownlow displayed a great want of dignity and although we would have been pleased to have is sending a dispatch to Col. Forney, giving his reshad the judicial ermine fall on one of the many able | pects to "the dead dog at the White House." members of the Bar of our Circuit, yet after wit- It was dignity in the President to oppose the nessing the manner in which you have discharged | nomination and election of the Governor, on the your duties, and knowing you, as we believe we do, ground that he had always been a member of the we say in perfect candor that we do not now desire | Whig party. It was dignity in the President to deto exchange you for any one clse."

especially charging the Grand Jury the laws on by letter-writing, and by the use of patronage to detreason and the "act to limit the elective franchise." | feat the passage of the Constitutional Amendments, The Bar and people were impressed with his hon- and to break up the Legislature. It was dignity in esty and firmness of purpose, and extended to him | him, in a drunken harangue on the 22nd of Februevery mark of courtesy.

cord on the Bench, the denunciation of the Nush- to get beastly drunk at his inauguration, and boast ville "Dis-Union and Mexican" to the contrary of his greatness in the presence of Congressmen,

## Paying Loyal Tennesseeans.

The rebel papers of Tennessee, and the leaders of the new Johnson-Democratic party, are absolutely enraged at the late Congress for having passed a law to pay all loyal citizens of Tennessee, without delay, for their property taken and used by the army of the United States. It seems to have taken the wind out of their sails, and to have deprived them of the only thunder they had to use against ring the rebellion, and a much better Union man the radical Congress. Although the measure was then than he is now. But had his father-in-lane carried, and loyal men are now to be paid for eve- President Johnson, taken the rebel side in the outrything used as Quartermaster and Commissary set, as he does now, Patterson would have been a stores, including grain, forage, horses, mules, cattle, hogs, sheep, &c., Mr. Leftwich, the Johnson-Conples and associations pre-eminently qualified him left to the Speaker of the House, so far as East Tennessee is concerned. The peorything used as Quartermaster and Commissary set, as he does now, Patterson would have been a See the following letter to the Speaker of the House, servative member from Memphis, voted against it. for a Robel. The same day the bill came up to restore Union men the lands confiscated by the Confederacy, and Mr. Cooper, Private Secretary of the President, king his sent that he "had neither sought, nor accept not least, expelled from the Tennessee Lagislature to go into the new Johnson Democratic party.coted to kill off the bill, while Maynard and Stokes ted, nor attempted to exercise the functions of any for ineligibility. Think of a Rebel Congressman voted for the bill. The Johnson-Conservatives held office whatever under any authority or pretended drafting a bill to be smuggled through a loyal Legisa meeting in this town, two weeks ago, at which suthority in hostility to the United States." He lature, with the aid of a Northern traitor! But see Frazier, and one of his acts was to vote against the reign of the Confederate Government; was elected; old Fred.'s loyal son Jo.: bill proposing to pay the loyal Tennesseeans for took their oath, and was saved from imprisonment their losses by the war. That party has a lovely thereby. We say again, that his taking the Conrecord! Loyal Tennesseeans understand them, and know what they mean by this out-cry against the "Radical Congress." This new party is destined to become more odious than the original Secessionists.

## The Constitutional Amendments.

The Democratic party, in their papers and in their speeches and conversations, persist in saying that the Constitutional Amendments recently adopted by the Tennessee Legislature, force negro suffrage upon the State. This is not only not true, but there is nothing in the Amendments upon which to hill. This is the rebel argument, the same applied found the charge. Negro suffrage is not proposed at Memphis, and more recently at New Orleans by to be forced upon any State, because it cannot be | the Johnson mobs! The Union printing office at The Amendments leave the States to adopt negro Jonesboro is now guarded, while the "My Policy" the bill if you think best-consult with him on the time and until the surrender of Lee, he was a campsuffrage or reject it, as they may think proper. The party watch an opportunity to destroy it. This is adoption of it will increase the Southern represen. the spirit that butchered the innocent at Fort Piltation in Congress, and the rejection of it will di- low, and the same spirit that assassinated Lincoln minish it. The admission or exclusion of negro suffrage will not increase or diminish the representetion of the Northern S ates, and it will be for the Southern people to decide for themselves whether tributed as follows: To Col. Conger, the brains and they will have a white basis, or whether they will the vigor of the capturing party, \$15,000; to L. C. increase their representation by adopting a mixed | Baker \$3,750, the same amount awarded to him by basis. This is a true and impartial statement of the Doberty 85,250, and to the privates \$1,600 each. case, and every candid man, intending to stand by the truth will admit it. Those intending to deceive PRIVATE MEDICAL ADVICE .- Read Dr. Whit and mislead will represent the case otherwise.

True Southern Chivalry. The following letter from a Northern State comes to us from a geutleman whose character is above uspicion, and whose statements will be relied upon in the large city where he resides. It discloses the mob spirit of this Johnson-rebel-party, and the same spirit that assassinated Mr. Lincoln :

July 24th, 1866. DEAR SIR :- Although there are some traits in your character which I do not admire, yet the firm His two sons, and three sons-in-law, went into against dangerous opposition. And the great good we expect you to accomplish during the continuaders you an object of more than ordinary interest. Therefore, it is that I have felt it my duty to make

known to you the following:
I was in the "Commercial Hotel" in Memphis, Tenn, about 2 P. M., on Friday the 20th inst., and overheard three individuals talking about "Parson Brownlow," one of whom appeared to be the clerk. I paused, pretending to be looking over the names | Fred. took no offense at us because of the signal dethe register, but really to try to hear what they said. I could only catch the following, uttered by the one next to me-not the clerk. "I tell you," he ing been an inveterate old office-seeker all his life. said. "I am willing to give all I possess to have that he applied to us after General Burnside took the will prepare to meet these men both at the ballotman put out of the way, and by God, he'll find that | country for aid in getting a position that would enable him to make some money. Not having assist-ed him, we suppose is the first offence we gave him. his term is as much too long for us as Abe Lincoln's

(Perhaps he said "half of all." I will not be cer-I inquired of a gentleman what his name was, but could not tell. There were none others present. xcept the parties in conversation, and I knew it would not be healthy for me to manifest any impertinence on the subject to them.

The impression made on my mind by the above. is that there is,or will be, an effort made to "put you out of the way," according to the most approved Southern style If this notice, which I have thus intruded upon on, should prove to be of any advantage to you, hould danger arise. I shall feel amply rewarded. Very respectfully,

P.S .- Had I thought of the matter as seriously at the time, as I since have done, I would have ound out their names by some means, and am sorry As to my reliability, I refer you to Gen. Fisk.

have a partial acquaintance with him. A similar letter has been received by the Governor from a Federal officer in Mississippi, disclosing he name of a party threatening a similar fate .-Rebellion, assassination, and the ruins of the Gov ernment, are what a great body of the Southern chivalry are bent upon. The late rebellion owes its rigin to the spirit of murder, robbery and perjury; and the same spirit is actuating the new leaders in their efforts to get up a second rebellion.

The same spirit is manifesting itself at Richmond In a late editorial in the Examiner, commenting on the part the Governor took in passing the Constitulature, the editor says: "If there is any law, written or unwritten, which

can reach this old scoundrel Brownlow, it should be appealed to at once. Patience has ceased to be a At the same time all these threats are uttered

every treasonable sheet North and South is down was damaging to the rebel cause. The large crowd upon the Governor. Still they say he has no influence, and that no importance is attached to anyhad come to the meeting. It has taught the rebels thing he says. The Governor is making some par-

### Spirit of Forgiveness.

Grayback policy. Col. Fletcher was alone adver- cy towards the rebels, who during four years of bit-The Union men of East Tennessee are all right, to rob, plunder and starve out Union families. Not and Price, his neighbors, who will be fine witnesses and don't intend to go off with political traitors only are the ill-treated Union men called on to forgive and forget the wrongs of the rebellion, but they are called upon by their votes to say that the rebellion was meritorious, and that its active trai-Judge of the 18th Judicial Circuit, held Court at tors were patriotic men, and are now entitled to fa-Winchester, in Franklin county, two weeks ago .- vor at the hands of loyal men. They not only ask Jadge P. was recently commissioned, and this is the Union men to ignore treason, but they ask them to first Court he has held. Every county of his Cir- reward it. Union men in the South are not called cuit is in Middle Tennessee, while the Judge's home | upon to support men who stand for office upon their is at Kingston, near this place. Knowing him to own merits, but they are called upon to support

to these in the Circuit whom he did not know to and forget the injuries done us by men now acting possess all these virtues. For the information of | in good faith towards the Union, we can have nothour readers in East Tennesses who know the Judge, ing to do with the graceless scoundrels who broke we will say that the counties comprising the Circuit | up our business, had us thrust into prison, and referred to are smong the most disloyal in the State | drove our family of helpless women and children In what we have said above we mean no reflection | out of their native country. Others of these imps on the ability and personal integrity of the Bar of of the Devil, and pinks of the Confederacy who dethe Circuit. We refer to the question of uncondi- liberated in Ramsey's Law Office while we were in tional loyalty. The leading rebel paper of Nash- jail, as to how they would rid the world of our pres ville, the Union and American, so-called, (appro- ence, can never receive any acts of kindness at our printely speaking "Dis-Union and Mexican,") hands. Nor can we ever look, with any degree of boiled over with rage that an East Tennessee radi- allowance, upon that class of Railroad officers and cal should be appointed Judge of a Middle Tennes- | conductors who, in 1861, urged the rebel troops to see Circuit. It carried its venom so far as to assail | destroy our office, take down our flag, and even Judge Patterson personally and officially, in terms | bang us. We have no use for such rebel officers as of indecent personality. A complete defense of Ashby, Powell, and others, who halted in front of Judge P. from this unwarranted attack is found in our dwelling and ordered their men to groan for us. the proceedings of a meeting of the Bar and officers | Nor do we want the friendship of such citizens as of the Court-men opposed to the Judge politically. approved this ruffianism. True, they laid the flat-Through their chairman, Col. P. Turney, resolutions | tering unction to their sordid and treason-stricken were road in open Court consuring and rebuking in | souls, that we had gone up, and that with our famthe most positive manner the action of the Union lily, we were gone from the country forever. Deluand American, and doing the Judge full justice. In | Inded villians! We are still here, to look with inpresenting the action of the meeting, Col. Turn-y | dignation and scorn upon our malignant persecu stated that "the Bar and people of Franklin coun- tors, and upon all who excuse their cowardly and ty condemned positively the attack made upon villainous conduct in these respects, as meaner than

## What is Dignity?

nounce the Governor to different members of the The Judge boldly walked up to the line of duty, | Legislature. It was dignity in the President to seek ary, to denounce Senators and Representatives by We predict for Judge Patterson an honorable re- name, as traitors. It was dignity in the President and Foreign Ministers. Is this man held up as an example of dignity by this new-born dignity party. The Governor does not belong to that school of dig-

## Case of Judge Patterson.

The papers have a great deal to say about the loyalty of Judge Patterson, and about the propriety of his taking the Congressional test oath. We have no doubt that Mr. Patterson was a Union man du-

gressional oath, was alone a matter of faste and of conscience on his part.

The True Rebel Argument. Two unsuccessful efforts have been made to burn the Flag office at Jonesboro', an outspoken Union law, but it is like your Railroad bill, in which you paper, and a bold and patriotic sheet. Old papers saturated with turpentine were thrown into the window and fired. The second effort was to put fire thing. It is purposely made brief, and it cuts up the under the office building, situated on the side of a cases by the roots. In case any convictions have ing the war? Part of the time editing a rebel pa-

THE REWARDS FOR THE CAPTURE OF BOOTH .-The House of Representatives have resolved that the rewards to the captors of Booth should be dis-

ter's advertisement in another column.

Case of Old. Fred. Heiskell. This old whisky-rotted, broken-down political

This old whisky-rotted, broken-down political hack, has been for several months abusing and black-guarding the senior editor of the Knoxville Whio, through the columns of a dirty little daily, conducted by an insolent swindler, and a degra ded little rebel sympathizer—used as a tool by a den of little rebel sympathizer—used as a tool by a den of the same are hereby dismissed, and the courts and the same are pending are hereby ordered.

cowardly conspirators. To all this blackguardism and abuse we have made no reply, and all the reply we propose now is to set forth the causes of this slang, that the public may appreciate the assaults of this poor old grey-haired traitor. your character which I do not admire, yet the last stand you have taken and maintained for the last the rebellion, acting a prominent part, and the old man remained professedly on the Union side, pretion of our struggle, under the new phase it has assumed, and under the new leaders it has secured, renty at the breaking out of the rebellion, he contrived Radicals "Brownlow and his Bogus Legislature" to have himself arrested by the rebel authorities .- are for not allowing the passage of this "Act of This was to give him force among Union men when he brought his patriotic son Jo. upon the track for the Supreme Bench, and got him so badly beaten by Judge McKinney. From that day to called upon to repeat this publication we promise this his lying old tongue has been active in the defamation of all who refused to vote for Jo. Old feat of his bushwhacking son, that we are aware of, as we are in no wise connected with the race. Hay-

> The second cause of offense was the publication in the WHIG of August 31, 1864, of the following CAPTURE OF JOSEPH B. HEISKELL. This man is a rebel congressman, a lawyer of very air talents, a citizen of Rogersville, and was recently sptured by the command of Brig. Gen. Gillem, and is ow in the military prison of this city, where he is likely to remain for some time to come. His position at the oreaking out of the rebellion was one of respectability, nd his relatives and friends are of the first respectability in this end of the State. But the law and those who administer it, the civil and military, have ne right to pass ver the grave offences of one of the worst men in the ountry, because of the respectability and eleverness of nis friends and relatives. Rather, his rank in society, is better raising and education, all having been abused by him, and used to promote the most infamous rebellion he world has ever known, ought to call down upon him | that nine honest laborers, equally loyal, suffer to | Indigestion, Derangement of the Liver. Costiveness, Constithe most rigorous enforcement of the law, and the appliation of its just penalties. An example should be made f all such men, and unless it is done, the prosecution of ought, bled, and died to no purpose. The loyal men of the country have been fighting, suffering and dying for and kept up by just such men as Joseph B. Heiskell. It

rebel congressman. No man has ever been brought into this city as a priser, since the Federal occupation of East Tennessee. ver whose capture and confinement there has been such general rejoicing as in the case of this man. Nor there a man in the length and breadth of this end of tter feeling of hatred, among loyal men. And what created such feelings of dislike? The proper newer to theze questions shall constude our remarkupon this subject.

now time the halter should be summoned to do its ap-

riate work, and no man in the ranks of the rebellion is

1. Mr. Heiskell, as a member of the Richmond Con-Cennessee, and that looked to their subjugation and humiliation. And being a native East Tennesscean, and a nan of talents, he exerted a large influence for evil. 2. He is said to be the writer of, as well as one of the tax-paving in a life time! igners to the bloody petition to Jeff. Davis, to adopt nore rigid measures in order to secure the arrest and punshment of East Tennessee Union men, and calling for | we say in all candor, watch the men who advocate he execution of the leaders, by way of example to the this paying for their lost negroes. If the Govern-

3. Mr. Heiskell was in the Chimney Top Raid, in arms against the Union men, and took a prominent part in negroes, we go for it, but we shall never consent to eeking to kill, wound and capture them-for which he will long be held in hateful remembrance. 4. He was in the Byrd Raid, and is chargable with the and never desired to own any. Slave-holders got ying up, and shooting of poor old Byrd full of bullet ioles, because he could have prevented it. 5. He was in the Carter county Raid, in arms against and fighting to destroy his own constituents.

6. He was in the Brooks' Ferry Raid in Hawkins county, and with his double barrel shot gun fired on Brooks against him in an indictment for treason, now pending before the Federal Court in this city. 7. He was one of the committee of five at Rogersville wait on Longstreet, and urge him to remain in East

Tennessee, and assure him that there was abundant sup-

dies to furnish his army. He rode round with the rebel fficers and pointed out Union farms, and among them 8. Before his capture he paid different visits to the fail in Rogersville, where as many as thirteen Federal priso- that school of Northern traitors, will be ners were confined, soldiers and citizens, and abused and there, armed and equipped as the occasion villified them. Gallant man, to thus abuse prisoners

whose table Heiskell has been fed time and again .-

These prisoners were released by our soldiers when Heis-

Can such a man expect any quarters from the hands of Federal, authorities? Does he deserve quarters? twenty-four hours within the reach of the men he has abused, persecuted and outraged. Indeed, there are men f pluck and character in his own county who are under

The third cause of offense was the disgraceful besting he got in a race for Congress last August. of five candidates in the field, this old rebel conspithe district with circulars, writing letters, and dis-Knox, where he has lived all his days, the rise of r the office of Governor. It is said that a charter came up to the Legisla-

ecount, and constitutes a fourth cause of offense, though we are not aware that such a thing was We endorse the act, and pass it to the credit f a loyal General Assembly, if it were done. The patriotic son, who resides at Memphis, presared a cunning bill for the benefit of rebels, and ent it to Nashville, with a private letter of inwas not proposed, as it was thought "Brownlow's failure.

Legislature" would not pass it, and this constitutes our fifth cause of offen-e against the peace and digity of this remarkable family! Will those to whom the bill and letter of instructions were entrusted, remove the seal of privacy, and allow us to dify the public with the reading of both? e was tramping around town with a book under ais arm, soliciting subscribers to the Johnson Club! In this way he expects to accomplish one of two

elect him to some position hereafter. There is enough of decernment left to the people, by the ravages of war, to see through and apprecie the tricks of old political backs and disguised raitors, and when they come before them for their otes they will do them justice. To the people we efer this, and all other cases of misrepresentation, rick and treason, for settlement, and with their

verdict we shall be satisfied. In brief, a case exemplifying more malice, more lepravity, more scoundrelism, more contempt for enerosity, more baseness, more blind devotion to a seldom or never been made public. A fugitive from the fold of truth, the walks of sobriety, and poor old apostate is held in utter contempt by the and contempt of all parties. people who, until recently, have respected his grey

This Heiskell family have been engaged in a reg ular conspiracy to block the game upon Union men, and even to control the Legislature of Tennessee, so as to relieve their friends and relations from existing indictments. They suspect the Governor for defeating their schemes, and hence their bitterness. The matter of his taking the oath was one of an Illinois Copperhead, who was dishonorably dis-

> MEMPHIS, October 1st, 1865. of Amnesty and Oblivion, for offenses committed in the Rebellion, which I hope you will put through. You will have much to do to overcome the opposition to such a measure. If you want the legal points Judge Cooper can furnish them to you. You will see at once that many objections can be taken to the did not want any d -d fooling to embarrass it .-You know in this case who has to administer the law, and how important it is to have no fooling in the taken place, they ought to be provided for either by name, or in such way as not to have to depend on any Executive interposition. I wrote you the other day about Mr. Comeron. He will take charge of

Your letter is highly spoken of here—it is republished in the Bulletin this morning, and will be commented on to-morrow. Well, I had no idea you send you the paper. I sent some days ago my argu-ment on the confiscation law before Trigg, which I Nay! verily, he has been one from the cradle. hope you have received.

J. B. HEISKELL. Yours truly, Be it enasted by the General Assembly of the State of Tennesses, That no person shall be prosecuted, tried, or punished, in any - "the Courts of this State for any treason heret ein, or fee any crime or offense communication

the time of the committing of such offense; or for any offense committed in the service of the Confederate States, or of the State Greenment resisting the

ment of Union men, and the firing on those seeking to escape rebel conscription! And what corrupt Amnesty and Oblivion!" But we have more letters and disclosures behind, and every time we feel called upon to repeat this publication we promise want light to enable them to appreciate the movements of these Johnson-Rebel-Democratic leaders who are eacking to drag them into a second rebellion. The people are getting their eyes opened, and box and catridge-box!

### Paying for the Negroes.

Copperhead-Reconstruction Party are out square and deranges its natural functions. These if not relieved, re footed in favor of paying Southern men for all the act upon themselves and the surrounding organs, producing negroes they lost by the war. We are frequently this condition, take Ayer's Pills, and see how directly they asked if we favor the policy. We answer, emphat- restore the natural action of the system, and with it the buoyically, NO. Not more than one in ten of the loyal ant feeling of health again. What is true and so apparent in men South ever owned any negroes, or desired to this trivial and common complaint is also true in many of the own them, and it would be unjust, if not down right effect expels them. Caused by similar obstructions and derobbery, to tax nine laboring men to pay for the lost rangements of the natural functions of the body, they are negroes of one gentleman. Taxation is the only rapidly and many of them surely cured by the same means. mode by which the Government can pay for them ; and it is better that one loyal slave-owner suffer than as Headache, Foul Stomach, Dysentery, Billous Complaints, make his losses good. As to rebels who brought on pation, Heartburn, Rheumatism, Dropsy, Worms and Supthe war on account of the negro, it is proper and pression, when taken in large doses. ne war is a failure, and our ga lant Union soldiers have | right that they should loose their negroes. Mr. Lin- them easily, and they are surely the best purgative medicine coin offered to restore their slaves, and all their lost | yet discovered. lmost four years, to put down a rebellion brought on rights, if they would lay down their arms against a given time. They swore they would have their in- For the Speedy and Certain Cure of Independence or loose all. They lost their indepenmore suitable man to commence upon than this same | dence, and their negroes, and got whipped in the bargain. Let them take all together as their rightful inheritance.

Most of the men now in the Copperhead ranks in the South are men who expect when the Southhe State, against whom there is a more deep-rooted and ern States are represented in Congress that they will Ohills and Fever, and it has this great advantage over other be compensated for their negroes. Not a few of Ague medicines, that it subdues the complaint without injury them think that they will even get slavery restored. to the patient. It contains no quinine or other deleterious Our people can afford to pay a direct tax to liquidate | substance, has a whatever. Shaking brothers of the army and the west, try it ross, voted for, and advocated with great seal, every the war debt, through a period of several years, but and you will endorse these assertions. were measure for the punishment of Union men in East tax them to pay for FOUR MILLIONS OF SLAVES, owned by a small number of nabobs and original Druggists and Dealers everywhere, in Knoxville, at wholesale secessionists, and they will not get through with

To the Union masses, the honest working voters, ment will tax the slave-owners alone to pay for the tax men to pay for negroes who never owned any, up the big dance in 1861-they continued the frolic for four years-and they are the very men to pay the fiddler!

### The Philadelphia Convention.

The call of a Convention at Philadelphia, for the middle of August, is with a view to establish a new party, a Johnson-Rebel-Southern-President-Making-Conservative-Spoils-Hunting party. The Copquartered, eating up their substance and destroying their Rebel Democracy of the South, are going into and extremely beneficial in its action upon the skin .it with equal zeal. Vallandigham, and all For sale by all Druggists and Pancy Goods Dealers. feb21-ly ooking through the iron grates of a rebel prison. One of may demand. The traitors who held the Chicagothem. Houston Sewell, the son of a widowed mother, at McClellan Convention, and declared the war a failure, will all be there, claiming front seats, and kell was captured, and we have the facts from some of claiming to be the original friends of Johnson, and creasing sale have made the Ambrosia famous all over of the Union as it is, and the Constitution as it was. | the world. Rebel Generals, Rebel Congressmen, guerrilla chiefs, ainly not, and if he was at liber y he could not live and licensed robbers and murderers, of the late Confederate army will be there, throwing up their hats for Johnson, and swearing by the honor of Jeff. solemn outh to kill him whenever they can get a chance Davis that they have no regrets on account of any thing they did during the war. In a word, Copperheads, straight out Rebels, apostate Union men. weak-kneed Republicans, office holders under Johnrator ran through at the tail end. After flooding son, office seekers, back sliders and adulterous preachers, and discontented politicians of every ributing tickets, he received, in the county of kind, and holding all shades of opinion, will be who stand by Congress. And when all the discord- two large bottles: No.2 for morning-No. 1 for evening. ure from Memphis, and that his patriotic son Jo's ant elements North and South get together there, ame was stricken out on account of his treason .- | the assembly will be equal to that described in Pe-This just rebuke, if administered, is charged to our ter's vision; and like the ram Daniel saw in his vision, they will push eastward and westward, north-

ward and southward. It is well for all honest men to look critically to this new organization before they go into its corrupt folds. It will turn out to be the old fashioned To whom was it sent? Thereby hangs a tale! It some other name. The whole thing will prove a gust, TAOMAS H. SMILEY, after a protracted illness.

Northern Men in Tennessee. There is some grumbling in this quarter on account of reflections cast upon Northern men .-The last that we heard from old Fred, officially, Northern men are alone to blame for all reflections east upon them. There is a class of them who fought gallantly throughout the war to put down nings-either he expects to be rewarded by the the rebellion, and afterwards settled in Tennessee. President with an office, or he expects to ring in | but turned over to the Copperheads, talked in their cotes enough, and get them committed to him, to favor, and against Congress as well as the very principles for which they fought. It is so evident that this class of men turn traitors to their principles, and go against the conviction of right for the sake of social position, and patronage, that even those after whom they creep, loose all respect for them, and all confidence in them. They respect those who stand up for their principles, and like men adhere to what they fought for. For these Northern sneaks who turn Southern men after fighting inking cause, and a disgraced band of leaders, and three or four years on the Federal side, no party more profligacy, ingratitude and worthlessness, has ought for a moment entertain a particle of respect. They are all things to all men for the sake the abodes of patriotism, honor and integrity, the of patronage and favor, and well deserve the scorn EAST TENNESSEE UNIVERSITY

Boasting and Blowing. The Rebel-Johnson leaders are boasting of the hanges going on in their favor, and of what they will be able to do at the ballot box. In the towns and villages these leaders hang around the groceries, stores, and at the corners, whittling sticks, and TWO HUNDRED HANDS WANTED. proposes to put in charge of his Rebel-sacing-bill, is ple recollect that a portion of these men urged them to go into the rebellion-that others went for the taste and of conscience. He had to swear before ta- missed from the United States service; and last, but McClellan ticket, and now they are wanting them When these men come to meet the people at the ballot box next August, they will treat them as they particulars apply to the undersigned.

DAVID F. DEARMOND. treated the Secessionists, when they incited them to they endersed the legislative career of Sanator Bull was a candidate for Circuit Court Judge under the these levely documents, both in the handwriting of aid in carrying the State out of the Union, in 1861. These Johnson-Conservative-Democrats can't be elected either to Congress or the Legislature from East Tennessee. Mark what we say. They are DEAR UNCLE-I inclose to you a draft of an Act | throwing off the mask daily, and are becoming weaker instead of growing stronger. In other words, the people are getting to understand them.

"Where is Mullins?" In the Legislature of Tennessee making an ass of himself-Arnell ditto .-Cleveland Banner:

Where was McNelley, editor of the Banner durper and declaring for the extermination of "East Tennessee Tories and Lincolnites." meaning all East Tennessee Union men. The remainder of the follower of the rebel army. Where is McNelly now! In the same business. He is now following the rebel grany in supporting Andrew Johnson and would do the thing so well, though I knew you gen- denouncing the Congress of the United States, as a erally hit the nail on the head pretty nearly, I will "Rump Congress." Is he making an ass of himself?

> They have a "loyal" est-bird in Richmond, In-diana, that warbles Yankee Doodle with the variadone Southern Exchange. Some copperhead editors of canine propensities

gut do well to imitate this cat-bird-warble mes of Yankee Doodle more and bark less at the friends of the United States forces, as the same were held at peace and good Goverment .- Homer (La.) Iliad.

SPECIAL NOTICES. MRS. WINSLOW'S PREPARATIONS Every mother, eister, and child know that Mrs. Winslow edicines are no humbug, but all the most reliable and efficience are no humbug, but all the most reliable and efficience and the most reliable and efficience are not all the most reliable and efficience and the most reliable and efficience are not all the most reliable and efficie

THE QUEEN HAIR RESTORER AND MYSTIC PILLS are offere to a discriminating public, confident that they excel in virtue all other preparations of the kind extant. See advertisement

ITOH! ITOH! ITOH! SCRATCH! SCRATCH! SCRATCH! WHEATON'S OINTMENT Will Cure the Itch in 18 Hours. Also cures SALT RHEUM, ULCERS, CHILBLAINS, and all ERUPTIONS OF THE SKIN. Price 50 cents. For sale by all druggists. By sending 60 cents to WEEKS & POTTER, Sole Agents, 170 Washington street, Boston, it will be forwarded by mail, free of postage, to any part of the United States.

AYER'S PILLS.

ARE you sick, feeble and com 11 erted by a timely use of the right emedy. Take Ayer's Pills, and

-purify the blood, and let the fluids move on unobstructed in health again. They stimulate the functions of the body into vigorous activity, purify the system from obstructions The Johnson-Rebel-Conservative-Constitutional- which make disease. A cold settles somewhere in the body deep seated and dangerous distempers. The same purgative None who know the virture of these Pills will neglect to em ploy them when suffering from the disorders they cure, such They are Sugar Coated, so that the most sensitive can take

AYER'S AGUE CURE. termittent Fever, or Chills and Fever. Remittent Fever, Chill Fever, Dumb Ague. Periodical Headache, or Billions Headache, and Billious Fevers; indeed, for the whole class of diseases originating in biliary derangement, caused by the malaria of miasmatic Countries.

f he died in 1856.

This remedy has rarely failed to cure the severest cases substance, nor does it produce quinism or any injurious effect gineer, some three miles shorter than the Hazlehurst route, was fifteen thousand dollars cheaper to build, and the con-struction of the road upon it will save fifty thousand dollars Prepared by J. C. AYER & CO., Lowell, Mass., and sold b

and retail by E. J. SANFORD & CO.

DUTCHER'S LIGHTNING FLY KILLER

Makes quick work with flics, and if commenced early, keep

Look out for imitations. Get Dutcher's only. july181m

ERRORS OF YOUTH. A Gentleman who suffered for years from Nervous Debility. Premature Decay, and all the effects of youthful indiscretion

will for the sake of suffering humanity, send free to all who need it, the recipe and directions for making the simple reme-dy by which he was cured. Sufferers wishing to profit by the advertiser's experience, can do so by addressing, in perfect confidence, JOHN B. OGDEN, No. 13 Chambers Street, New York.

COLGATE'S HONEY SOAP. he farms of Kyle and Blevins, upon whom brigades perhead Democracy of the North, and the emollient in its nature, fragrantly scented.

A Crown of Glory.

Every man, woman child who has used Sterling's Ambrosia is willing to recommend it. Three years of rapidly in

IT IS WARRANTED TO PLEASE.

It cures Itching of the Head. It Makes New Hair Grow on Bald Heads. It Prevents the Hair from Falling Out.

It Renders the Hair Soft and Glossy. Cleases the Scalp. Cools the Heated Brow. Remove Daudruff. Cures Nervous Headache. Cures Baldness. Insures Luxuriant Locks. Inclines Hair to Curl. Supersedes Wigs. Kills Hair Eaters. Good effect appa-

TO THE LADIES WE SAY. one hundred votes! What a rebuke! What adds to there, and forgetting old differences, and old robbe- the Ambrosis will suit you to a T. Elegantly put up. his mortification, the same people, of the same coun- ries and defalcations, they will strike hands in polit- Delicately Perfumed. Patronized by Opera Singers and cy of Knox, gave us the rise of two thousand votes | ical fellowship. They invite everybody but those | Actresses. Sold in splendid boxes or cartons, containing

> THERE IS NO MISTAKE ABOUT IT, STERLING'S AMBROSIA is the best, most agreeable and effective toilet article in the world. To prove this

STERLING'S AMBROSIA MANUFACTURING CO.,

215 Fullow Street, New York.

DIED.

#### He was an old and respected citizen of Knoxville. NEW ADVERTISEMENTS.

REMOVAL. DR. J. R. LUDLOW HAS REMOVED to his house on Mabry street, east of first creek and near-opposite Ingle's Mill, where he may be found after five lock P. M. and before nine o'clock A. M. KNOXVILLE

FEMALE INSITTUTE. THE FIRST SESSION (OF FIVE

Tuesday, Sept. 4th, 1866.
TUITION PER SESSION from ten to twenty dollars according to studies pursued.

Competent Teachers in French, Music, Painting, and Drawing, are ready to enter upon their duties. Contingent expense for half term \$ 1.00.

Board in house of Principal per week, 4.00.

No deduction for absence unless in case of protracted sick

ness.

Vocal music to entire school free of charge.

All branches from the Primary English to graduation in the essical course are taught.

KNOXVILLE, TENN.

WINTER SESSION BEGINS SEPTEM BER 13th, 1866.

M. D. BEARDEN, CHARLES MORROW,

# ATT ACHMENT.

Circuit Court, Third Judicial Circuit, Knox County

Mary Sawyers vs. Nelson Mynatt and others. IN THIS CAUSE IT APPEARS THE defendants, Nelson Mynatt, J. C. H. Sawyers, James cooler, Andrew Graham, Jefferson Nash, John H. Sawyers and Wm. Owens are non-residents of the State of Tennessee, or so abscord or conceal themselves that the state of tennessee, or process of law cannot be served upon him: It is ordered by process of law cannot be served upon him: It is ordered by the court that publication be made for four successive weeks in Brownlow's While, notifying said defendants to appear at the next term of the Circuit Court at to be held for the coun-ty of Knox at the Court House, in Knoxville, on the 2nd Monday of October next, to plead, answer, or demur to the suit and demand of the plaintiff, or the same will be taken for confessed and the cause proceeded with ex parse as to them. witness Wm. R. McBush, Clerk of said Court at office in

#### SOUTHERN EXPRESS COMPANY. TIME TABLE.

W R McRATH Clerk

CXPRESS MATTER RECEIVED AND dispatched from the office of the Company in Knoxville. Leaves daily for the South and West, via Chattanooga, at Goods and Packages received up to the hour of 1:40 r. m.
Leave daily for Lynchburg and the East, 9:92 s. m.
Goods and packages received at the hour of 8:00 a. m.
january
N. S. WOODWARD, Agent.

IF YOU HAVE TETTER, SCALY Eruptions, Pimples or Blotches on the face, Ulears Run-ning sores, or any disease arising from an impure state of the shood, go to Dn. JAMES RODGERS, and set a bottle of Gregg's Constitutional Life Syrup.

200 DOZEN BROOMS, AT MANU-

Decision of the Supreme Court. JUDGES-SAM MILLIGAN, JAMES C. SHACKELFORD, AND ALVIN HAWKINS. THOMAS H. CALBWELL, Attorney General and Re-

porter.

SASHVILLE AND NORTHWESTERN RAIL ROAD COM-PANY vs. JOHN JONES AND ANDREW J. BAKER, Ad-PANY w. JOHN JONES AND ANDREW J. BAKER, Asternative to the part of the day of January, 1809, brought and it in the Grount court of the day of January, 1809, brought and it in the Grount court of the day of January, 1809, brought and it in the Grount of two calls of ten per cent. each, one due lat day of March, 1856, and the other due lat of April, 1859, upon thirty share of the capital stock of said company, alleged on the capital stock of said company, alleged and the court of the capital stock of said company, alleged and the countries of the capital stock of said company, alleged and the countries of the cou The Nashville and Northwestern Railroad Company, on the

this route would have added many thousands of dollars to the value of the tract owned by Jones. The company appears never to have done any work on or towards the construction of the railroad upon this route, nor indeed anything except the final act of locating the road thereon by a resolution of the nnai act of locating the road thereon by a resolution of the board of directors, though there was considerable work done on other portions of the line. Sometime in the early part of the year 1856, and certainly before the month of April, Isaac Jones died, at which time, and for a considerable period pre-viously, the company would seem to have suspended work almost, if not entirely, upon the whole line of its road.

The tract of land owned by Jones was on the 10th day of April. of the same year, sold for the purpose of partition, and brought the sum of \$5,100. It would have brought twice that brought the sum of \$5,100. It would have brought twice that sum if it had been supposed the road would ever have been built. It would, as testified by the witnesses, have brought as much if the route had never been surveyed and formally located. The calls made upon Jones' subscriptions were paid up to his death, and the pleadings assume that some calls made after his death were paid by his administrators. But if they were the sums so paid must have been small since the they were, the sums so paid must have been small, since the suit is brought for the calls due in March and April, 1856, leaving only the two months of January and February, in which calls made after his death could have been paid by them The rule that a member of a corporation is ordin The other route, known as the "Sullivan Branch route," was always considered the cheapest and best for the railroad, if the company could have got the subscription on that route. On this latter route the road was located in September, 1859, or about that time. This route leaves the Haziehurst route about two miles this side (east) of Jones forgs, and near Jones' dwelling house, on a different tract of land, and does not join that route again for fifteen miles beyond the forge.—

corporations like the present one may accept conditional sub-scriptions to its stock, and consequently conditional sharehol-ders for members. For the conditional subscriber was either The two routes are entirely different. At some places five or six miles apart. The new route runs up north of Beaver Dam Valley and with Sullivan's Branch. It is, as testified by the ennever a stockholder and member of the company, if the the condition were a subsequent one and viciated after the payment of calls, or exercise by the subscriber of the rights of a member, and the conditional subscriber, never having been a stockholder and member of the company, or having ceased to be so on the violation of the condition, the rule of law struction of the road upon it will save fifty thousand dollars in the expenses of running trains on the road in ten years.

At the forge, on the Jones place, the two routes are, as stated by the engineer, some twenty-five hundred feet apart, with a bluff between them, and as proven by another witness, half a mile apart and the bluff between them a high one.—
The road from the forge to the new road is at least a mile and a half in length, and a very bad one. Some two hundred acres of Jones' forge tract of land is good tillable land and the balance of it is their land, but all of it is well wooded. The change of the road from the original to the new route materially damaged this land. The new route is the shortest, cheapest and best route for the construction of the railroad. On the adoption of the new route the old one was entirely abandoned, and at the time of the trial of this case the mentioned has no application to him. 2 Parsons on contracts, 10 to 12. law to keep or perform his contract with another in the same in which he knew at the time of entering into it the other un-

road was being constructed on the new route. Upon this state of facts the court charged the jury: let. That the court charges the jury:

let. That the contract of subscription was a conditional one,
and to entitle the plaintiff to recover it must show the perormance of the condition.

2nd. That the words of the contract were to be understood mmon and popular sense, it meant to build and construct But if the proof shows the word "locate" had, when used in reference to the locality of the road, acquired an arti-ficial or technical sense, then the parties would be presumed

5th. If, when used in that sense, it meant the survey of the other it, when used in that sense, it meant the survey of the route of a railroad, and the adoption of that route as the line of the road by a resolution of the Board of Directors, and if the company did or caused these things to be done in good faith, they were a compliance with the condition, and the subscription of Isaac Jones became absolute.

6th. If the route of the road were so located in good faith, and affairment the company to the road were so located in good faith, and afterwards the company in good faith changed such loca-tion, such change would not release Junes from his subscrip-7th. If the company, in good faith, intended to build the er, better and cheaper route for that part of the road and

ntirely abandoned, and at the time of the trial of this case the

road on the stipulated route, according to the condition, and if, while endeavoring to accomplish that object, so far as it had the means, but before it had the ability to accomplish it Jones died, and his heirs sold the land and parted with all interest in it, and after such sale the company changed the route of the road, such change, though it would be a departure from the letter, would not be a departure from the spirit of such contract or condition, and would not operate to reease Jones from his subscription. The business of the court was to construe the contract of the parties. But the court did not do so. It told the jury that if the word "locate" was to be understood in its common and popular sense as it was, nules it was shown by proof to have acquired an artificial or technical sense, then it meant in the agreements to build and construct the railroad upon the stipulated line. But if it were shown by the proof to have acquired an artificial or technical sense, when used in reference to locating railroads, then the varying to these contracts

would be presumed to have used it in that sense. And if when used in that sense it signifies the survey and marking of a line and a resolution of the Board of Directors to adopt that line as the line of the road, then if the plaintiff, in good faith, did, or caused these things to be done, they would be a performance of the stipulated condition as to the locating of the road. But the court wholly omitted to tell the jury in which of these senses, the common and popular, on the artificial and technical one, they were to understand this word "locate" to have been used by the parties. ave been used by the parties. This omission occurs in a case in which there was not, so

of law were. But the court's province was to aid them in the matter of the law of the case by telling them affirmatively and directly, if such were its opinion, that the word "locate" was used in those papers in its common and popular sense; and if such were not its opinion, but its opinion was that the word was used in an artificial and technical sense, acquired by its use in reference to the locating of railroads, then it ought just as directly and emphatically to have instructed them that the word word would be presumed to have been used by these parties in the respective rights against each other, and the well estiled rules of law gave the administrators of Jones in that event the right to defeat any recovery against them upon the sub-

principles laid down for the exposition of contracts is to dojustice to the parties by enforcing a performance of their agreement according to the sense in which they mutually understood it at the time it was made. The governing principle of construction is the intention of the parties. That intention may be ascertained by looking to the situation of the parties, the motives which induced the agreement, and the object and purpose designed to be effected by it.

In the case of William Chapen vs. Peter Gullet and others— 2 Sneed, 275—it was laid down that though parol evidence can not be admitted to vary, alter or explain the intention of the

true, that application must be given to the contract by the surrounding circumstances; 2 Sneed, 282. The Court decided in the case of Caines vs. Apperson & Co.-2 Sneed, 562-1 Greenieaf, 60, Sec. 278—"that every species of contract may be subject to conditions by which all estate or interest may command or be enlarged or be defeated. No technical words are necessary to create the condition or declare the nature, and that conditions were to be either precedent, or subsequent according to the fair intention of the parties, to be collected from the instrument. "That technical words, if there were any, to encounter such intention should give way to such intention." "In the present case, it is" say the Court, "argued that the words "have bargeined and sold," used in the instrument, give character to the contract; and evidently show that a title is present was intended to pass. Certainly the words were technical and appropriate to the idea of an executed con-tract, but when we consider the entire instrument it is per-fectly clear that such was not the intention of the tract, but when we consider the entire instrument it is perfectly clear that such was not the intention of the parties."—

No particular words are, says Story on contracts, Soc. 29, page 33, "necessary to constitute a condition precedent or a condition subsequent, and if there be any question upon this point it must be determined by the intention of the parties as manifested by circumstances of the particular case. For, not only may the exact terms of a condition be modified so as to harmonize therein with the evident intention of the parties, but where no condition has been expressed, it may be implied from the facts in the case." "A conditional contract as decays, was directed to pay the same, together with such sums the might thereafter collect, to complainants and defendants.

a contingency and condition."
A condition subsequent, is one which follows the performance of the contract, and operates to defeat and annul it upon the subsequent failure of either party to comply with the condition." "Thus a devise of land for the purpose of building a chool house, provided it be built on a certain site, was held to be a present grant of the land, subject to forfeiture in case the school house should not afterwards be built." Parsons on the branch Bank of Tennessee, at Shelbyville, NOTICE.

BIDS OR PROPOSALS FOR THE building of a new jail in Knoxville, Tennessee, will be received by the undersigned, commissioners, until the 25th day of August, 1866. Said jail is to be built of stone. For further particulars apply to the undersigned. certain, however, that now no precise words are requisite to constitute a condition. It would be difficult and perhaps imposstitute a condition. It would be difficult and perhaps impos-sible to lay down rules which would have decisive influence in were made in his own name without more—that he kept no

> company prohibiting it from entering into and accepting conditional contracts or subscription, the general rules of law upon the subject of such contracts, as indeed in regard to all other contracts made by such companies, must apply to their contracts as they do to the like contracts of individuals. Now submit the agreements in this case, and the charge of the court below in regard to them, to the test of the doctrines and principles laid down by this court in the cases we have cited, and the other authorities to which we have referred. and by the other authorities to which we have referred.
>
> The Nashville and Northwestern Railroad Company had a charter by which it was authorized to construct a railroad from Nashville to —, on the part of this line, between a point two miles east of what was known as Jones' Forge, and a point some miles west of that forge there was two routes.—
>
> The best shortest and charter to make the counsel for Whitthorne, that he had a a point some miles west of that forge there was two routes.
>
> The best, shortest, and cheapest of these routes for the conlands, bank notes of par value at the time; that he also had a

> surveyed, and as surveyed, the route passes through the yard of the forge upon his tract of land. If the road shall be constructed upon that route, the forge will be placed in immediate connection by raffway with Nashville on the east, and the Tonnesses river on the west, and all the products of his forge can be leaded upon the cars in his forge yard, and sent to either point. Life construction there will enhance the raine of that tract many theusands of deilars. In this state of things, the parties came together and entered upon the agree.
>
> Attest: J. G. Franker, Clark.

The parties used the term "located" in these contracts, in reference to the then existing state of things, which have been above detailed. The parties entered into the contract with the object, and from the motives indicated by that existing state of things. Without engaging to locate its road upon this route, the company could not obtain subscriptions of stock with which to build it through that portion of the country too

stood and considered as one contract, as they wase by the court below. So viewed, the condition is annexed to the subscriptions themselves, which are upon the non-performance, or upon the violation of the condition to be void. The company's acceptance of these papers, bound it, so far, at least, as any right to regard or hold on to the intestate issue Jones, as one of its stockholders, and to enforce the obligation of the contracts are into the contracts. as one of its stockholders, and to enforce the obligation of these contracts against him as a stockholder, is construed to build and construct the road upon the stipulated route, and upon its failure to enforce it, or violation of the condition, the subscription became void, all right of the company against him founded upon them ceased, and then accrued to him the right to recover both the account of the calls he had previ-ously paid upon the faith of the company's obligations for the construction of the road on the agreed router-same, no destite would, as shown by the passages quoted from Story and oth authorities, be the rights of individuals who had entered in an agreement with a like condition, which one of them had failed or refused to perform. There is no sound reason who the rule in this respect, governing the contracts and fixing the rights of individuals, should not apply to and govern the contracts of corporations with individuals, and their rights under such contracts against individuals, and of the latter

by the acts of the major part of the corporation, or of its duly appointed organs, as a Board of Directors, when done within the scope of its powers and purposes, does not constitute a reason why these rules of law as to conditional contracts should not equally apply to corporations and individuals, if tion was a precedent and not performed, or ceased to be a stockholder and member on the violation of the condition, is One party is bound as well by the rule of moral right as of

derstood the contract. Chitty on Contracts, 62. There can be no doubt that the company, when it entered into these con-tracts with Isaac Jones, knew that he understood them to make or continue him a stockholder of the company only upon the express condition that the company should build and con-struct the road on the stipulated route and only be bound on that condition to perform them by the payment of calls. To suffer it then under the plea of his being a steckholder, and bound by the action of the board of directors to change the location of the road, and still hold on to Issac Jones' subscription and to him, as a stockholder, would be to sanction as sustain its direct and palpable violation of the terms of its own engagement. Indeed, it would be to permit the company in their common and popular sense, unless the proof shows that they have acquired an artificial and technical sense.

3rd. If the word "locate" were used in the contract in its equity to make such representation good, and the same print sentation upon which another acts, is bound both at law act-equity to make such representation good, and the same prin-ciple precindes a party from any right of recovery, when he er. And clearly is this so when the term locate means as used in these contracts to build and construct the road. It follows that so much of the charge as held the change of the rule of the road did not release Issac Jones from his subscription was not the law of the case before the court. So does it tha the action of the court in overruling the demurrer of the de fendants to the third and fourth replication of the plaintiff, and sustaining these replications.

The third and fourth pleas of the defendants set out the fact of the change of the route of the coad from the stipulated route, and sought to recover the calls paid by the intestate and by themselves, as administrators, as sets-off in nature of cross actions. The replication admits the fact of the change of route, but aver that when the plaintiff was about to begin the construction of that part of the road it discovered a near-

adopted that now route, upon which the road was in course of construction. Then these replications contain an admission that the plaintiff had viciated the condition upon the permanence which alone the intestate was to become or to stockholder, and bound to perform his part of the centrary, and showed no valid ground of defence against the recovery sought in the pleas, if the result of the case should in other espects be such as would entitle the defendants to upon these pleas. The demutrers ought therefore to have been sustained, and if the plaintiff had any good ground for defense against the pleas the plaintiff permitted to avail it. self of such other ground of defense by sufficient replication.

The Court instructed the jury that inasmuch as the mot of Isaac Jones for insisting upon the condition of the subscr of Isaac Jones for insisting upon the condition of the authorip-tion agreement, as to the stipulated route, was to enhance the value of a tract owned by him, if this company in good faith intended to build the road according to the condition and was doing what it could towards the accomplishment of that ob-ject as far as if had the means to go, but before it had the ability to accomplish it Jones died and his heirs sold out, and parted with all interest in the land, and after they had sold out and donuded themselves of their interest the company changed the location, though it would be a departure from the letter, it would not be from the spirit of the contract, and would not operate to discharge Jones from the present would not operate to discharge Jones from the payment of his subscription. The express and positive contract of the com-pany and Isaac Jones was that unless the road was built and This omission occurs in a case in which there was not, so far as the record discloses, the slightest proof that the word 'locate' had, when used in reference to the losation of railroads, acquired an artificial or technical sense, or, indeed, any shade of signification different from its obvious, common and popular signification to build and construct the railroad. The effect of this part of the change was to leave the jury to grope along their pathway of duty in the application of the law of the case, as delivered from the bench, to the facts of it, without any clear or definite light whatever as to what the rules of law were. But the court's province was to aid them in the as arectly and emphasically to have instructed them that the
word would be presumed to have been used by these parties in
these engagements in that technical or artificial sense. It did
neither the one or the other, leaving the jury to guess in what
sense the word was used in these contracts, and then to apply
the sense in which they might conjecture it was used to the
facts as they should find them.

The rule of law is well settled, that the Court will not reverse for a more theoretical error in the church will not reverse for a more theoretical error in the church will not reverse for a more theoretical error in the church will not rebut any redress whatever for the admitted violations of the conditions of the contract. Both corporations and individu-als have the legal right to make their own contracts, and The rule of law is well settled, that the Court will not reverse for a mere theoretical error in the charge of an infer for Court, which has no application to the facts of the case, and could not in any way have misled the jury. But the charge in this case can derive no support from that rule. What is stated therein as to these two propositions with what is omitted therefrom, could afford a jury no aid, or light as to the law of the case, and could only have the effect of misleading them. The statements in the second of these propositions were not the law of the case in any of its aspects. But they were delivered to the jury hypothetically as the law of the case. It was decided in this Court in the case of McNairy vs. Thompson et al.—1 Sneed, 141—that the sole object of the rules and principles laid down for the exposition of contracts is to do justice to the parties by enforcing a performance of their may be admitted before a jury, and in which a court may be admitted before a jury, and in cate" and "location" are terms which have long been used in the land laws of this and other States, and have acquired, as used in those laws, a fixed signification. So they have been used in regard to railroads from the first introduction of this species of highways in England and in this country; and i any question arises in a particular case as to the sense of either of them, its sense must by the court be gathered from its use as it learns and knows the sense of all other terms. It is not competent to admit evidence before a jury to prove its sense whether it be common and popular or technical and artificial, and if in this case testimony for that purpose had parties as expressed in a written instrument, yet it is no less been admitted, its admission would have been erroneous.— But the bill of exceptions discloses so much proof, and the points are only noticed to prevent the admission of incompe-

tent evidence upon another trial since the charge in the bill of exceptions would seem to indicate that in the court's opin-ion such evidence was competent. The judgment of the court below will be reversed and the cause remanded for another trial according to the law of the case as stated in that opinion D. CAMPBELL, Special Judge.
Attest: JESE G. FRAZER, Clerk.

JAMES MASON et al, ve. WM. J. WHITTHOUNE On the 5th of February, 1855, James Mason et al, filed their bill in the Chancery Court at Shelbyville, against Hulda Ma-son et al, asking, among other things, for the sale of lands but where no condition has been expressed, it may be implied from the facts in the case." "A conditional contract as defined by this author. Story—is all executory contracts, the performance of which depends upon a condition. It is not simply an executory contract, since the latter may be an absolute agreement, to do, or not to do something; but it is a contract whose very existence and performance depends upon a condition."

"A condition by this author, Story—is all executory contracts, the performance of which depends upon a condition. It is not simply an executory contract, since the latter may be an absolute agreement, to do, or not to do something; but it is a contract whose very existence and performance depends upon a contingency and condition."

"A condition has been expressed, it may be implied as the might therefore collect, to complainants and defendance as he might therefore collect, to complainants and defendance as he might therefore collect, to complainants and defendance as he might therefore collect, to complainants and defendance as he might therefore collect, to complainants and defendance as he might therefore collect, to complainants and defendance as he might therefore collect, to complainants and defendance as he might therefore collect, to complainants and defendance as he might therefore collect, to complainants and defendance as he might therefore collect, to complainants and defendance as he might therefore collect, to complainants and defendance as he might therefore collect, to complainants and defendance as he might therefore collect, to complainants and defendance as he might therefore collect, to complainants and defendance as he might therefore collect, to complainants and defendance as he might therefore collect, to complainants and defendance as he might therefore collect, to complainants and defendance as he might therefore collect, to complainants and defendance as he might therefore collect, to complainants and defendance as he might therefore collect, to complainants and d proper credits for costs, disbursements, &c., there was still the hands of said Whitthorne, of said fund, the sum of \$3,19 The parties to said suit moved the Court for and stated that he deposited all the funds of his own and of sible to lay down rules which would have decisive influence in determining this vexed question. Indeed, courts seem to agree of late that the decision must always depend upon the intention of the parties, to be collected in each particular case from the terms of the agreement itself, and from the subject matter to which it relates.

The cases of the Hendersen and Nashville Railrond Company vs. Lovell, 18th B. Mouroe, 338—McMillin vs. Maysville and Lexington Railway Company vs. Robinson, 5th Wilmington and Railway Company vs. Robinson, 5th Iredel 291, and the Cumberland Valley Railway Company vs. Robinson, 5th Iredel 291, and the Cumberland Valley Railway Company vs. Back, 9, Warts, 485, show that contracts of subscription for the Bank of Augusta, Georgia, and on presenting the same was answered by the cashier of said branch bank a check on the Bank of Augusta, Georgia, and on presenting the same was answered by the cashier of said branch bank a check on the Bank of Tentuesce, at Shelbyville. It also appropriate that the same was a subscription for the branch Bank of Tentuesce, at Shelbyville. It also approximately prohibiting it from entering into and accepting con-

struction of the road, as well as for the subsequent operation of running trains upon the road, was through a poor section of country, in which the stock could not be raised for its concarnot be held liable for the depreciation of the notes so reof country, in which the stock could not be raised for its construction. The second and longest, worse and most expensive of them, was through a rich region of country, as far, at least, as Jones' Porge, in which the stock for its construction could be got.

These facts were known to all the residents of the country, and unquestionably, the company and isaac Jones knew them. The latter owned a tract of land on the longer, worse and most expensive route, upon which there were a forge, ore banks, valuable water power and timber plenty for the use and operation of the forge. The company is naturally anxious to obtain subscriptions of stock for the construction of its road.—
It can set the depreciation of the notes so received and depositions may all be true, but in the view we have taken of this case, they cannot discharge him from his liability now to pay the full amount in good funds, or collected by him.

By mingling the trust fund with his own money, and depositing the whole in the bank in his own name, and to his own individual and private account, to say nothing of his participation in the removal of the assets of the bank, or his failure to withdraw his deposits upon notice from the bank and the acceptance of a check in lien thereof, he troated the money as his own; from that moment it ceased to be at the risk of the corning as fews, and was at the risk of the trustee.

things, the parties came together and entered upon the agree. Attest : J. G. FRARRI, Clerk.